Que
Cons prot coun

Annual report

LEGISLATIVE LIBRARY OF ONTARIO
TORONTO
DEC 22 1975
RECEIVED

Conseil de la protection du consommateur

1974 - 1975

Ministère des CONSOMMATEURS,
COOPÉRATIVES et INSTITUTIONS FINANCIÈRES

Gouvernement du Québec
Ministère des Consommateurs,
Coopératives et Institutions financières

Conseil de la protection
du consommateur

September 1975

Mrs. Lise Bacon
Minister
Ministère des Consommateurs,
Coopératives et
Institutions financières
Parliament Buildings
Québec

Madam,

I have the pleasure of submitting to you the fourth annual report of the Consumer Protection Council.

This report covers the financial year 1974-75.

Yours faithfully,

RAYMOND BLAIS
Chairman

C O N S E I L

D E L A P R O T E C T I O N

D U C O N S O M M A T E U R

Le Conseil de la protection du consommateur was created under the Consumer Protection Act (1971, chap.74). The Act assigns an advisory role to the Council and, more specifically, the terms of reference listed in section 85 of the Act:

" a) to advise and make suggestions to the Minister on any matter he sees fit to submit to it;

b) to study at the Minister's request any problem respecting the application of this act and to submit reports and suggestions in this respect to the Minister;

c) to exercise any other function which the Lieutenant-Governor in Council may confer upon it."

The members of the Council are appointed by the Lieutenant-Governor in Council and their number may not be more than fifteen (15) nor less than ten (10).

For 1974-75, the Council was made up of the following people:

Chairman: Mr. Raymond Blais
Lévis
Union régionale de Québec des
Caisses populaires Desjardins

Vice-Chairman: Miss Simone Bourgeau
St-Charles sur le Richelieu
Service social de la Petite Bourgogne

Members: Me David Appel
Montréal
A.P.A.

Mrs. Gaby Bernard
Saint-Léonard
Cercle des Fermières

Mrs. Jacqueline Blanchet
Québec
Consumers Association of Canada

Mr. Yvan Cloutier
Amos
Northern Québec A.C.E.F.

Mrs. Nellie Désautels
Sainte-Rosalie
A.F.E.A.S. (Association féminine
d'éducation et d'action sociale)

Mrs. Odette Dick
Montréal
Québec Women's Federation

Mr. Robert Dickey
Brossard
Publicité-Coub

Mr. Pierre-A. Larocque
Grand'Mère
Québec Chamber of Commerce

Mr. J.-Adolphe Leduc
Laval
Retail Council of Canada

Me Victor Nabhan
Québec
I.P.I.C.

Mr. Pierre Pouliot
Québec
Provincial Automobile Dealers Association

Mr. Léonard Roy
Montréal
Conseil de l'Alimentation du Québec Inc.
Québec Management Council

Mr. Robert Tremblay
Alma
Fédération des employés de commerce
(C.N.T.U.)

C O N S E I L

D E L A P R O T E C T I O N

D U C O N S O M M A T E U R

ANNUAL REPORT

1974-1975

September 1, 1975

TABLE OF CONTENTS

MESSAGE FROM THE CHAIRMAN I

CONSUMER PROTECTION 1

A. Consumer self-protection 1

a) criteria of association representativeness 1
b) characteristics of organizations identified with consumer protection 2
c) the foundation of their credibility and authority 4
d) the financing of associations 6

B. The role of the business world in consumer protection 7

C. The role of Government in consumer protection 8

D. Recommendations: 10

a) co-ordination of consumer action 10
b) co-ordination of the action of Government services 11
c) unification of consumer, merchant and Government action 11

New structures in consumer protection 14

CONSUMER EDUCATION 15

A. The concept of consumer education 17

a) the consumer society 17
b) legislation and consumer protection 17
c) consumer education and information 18
d) education and paternalism 18
e) the educational needs of consumers 19

B. The present situation 19

C. Recommendations 20

a) instruction 20
b) information 21
c) motivation 22

- through individual action 22
- through collective action 23
- through collective action and organizers 24

AMENDMENTS TO THE ACT 29

General observation 29

A. Protection with respect to contracts 29

a) cash transactions 29
b) variable credit 30
c) warranties 31

1° warranties on durable goods 32
2° the repair warranty on durable goods 35

d) itinerant vendors 35
e) health studios 37

B. Protection beyond contracts 37

a) questionable practices 37
b) information agents 37
c) automobile repairs 39
d) automobile rentals 40
e) contracts between consumers 40
f) trust accounts 41

C. Protection of an administrative nature 41

a) regulatory powers 41
b) Consumer Protection Bureau 41
c) permits 42

MISCELLANEOUS REMARKS 45

Legislation and regulation 45

The use of credit cards 45

Amendments to the regulations 46

Regulation of the practice of pharmacy and the sale of pharmaceutical products 47

MESSAGE FROM THE CHAIRMAN

The last few decades were marked by technological and economic development.

A society's economic expansion is not an end in itself. It must result in an improved quality of life as well as an increased standard of living for the members of the society.

In recent years, "consumer protection" has become a stylish expression, to the extent that it has at times been abused.

During the same period, sky-rocketing prices in effect greatly reduced the purchasing power of low-income consumers.

As a result of this decrease in available income, some consumers have become increasingly concerned with the quality of the products they buy. However, this phenomenon failed to awaken many to economic realities, and worse, it seems that some consumers were even induced, as a result, to buy more on the basis of lower prices rather than on the basis of real quality of goods.

Advertising has become more refined and aggressive over the years, but also more subtle.

Consumers have become increasingly indebted and, in several cases, personal debts have reached an excessive level.

These factors, although not restricted to the people of our province, amount to serious difficulties for Québec consumers.

Throughout the year, the Council attended to these problems as a whole and strived to find appropriate solutions.

In the course of its twelve regular plenary meetings as well as during thirty-eight days devoted to committee work, the Council looked for basic solutions to these problems, although the recommendations we voice are for the most part very concrete.

Consumers of course have obligations and duties to fulfil. But, they also have fundamental rights which are to be respected by all:

1) protection of personal health, safety and economic interests.

The goods and services available to consumers should in no way endanger their health or safety, insofar as these products are subjected to normal use and employed for the purpose for which they are designed.

2) compensation for dammages

Consumers should be protected against abuses committed by certain merchants, both in the terms and conditions of contracts and in advertising.

We also believe that consumers should enjoy some kind of protection in the case of defectiveness in the goods or services involved in a contract.

3) information and education

Consumers should be adequately informed about the nature, construction, quality and price of goods as well as how they should be used so that potential buyers be in a position to choose wisely; this information should be made available through consumer education, informative labeling or through readily accessible assistance for specific consumer needs.

4) consultation and representation

A framework should be set up whereby consumers could be consulted and heard on the decisions which concern them.

Québec consumers must no longer be considered as mere buyers or product users but as individuals who are conscious of the various aspects of social life likely to affect their lives as consumers.

In view of this evolution in Québec society, it is relevant to ask ourselves whether the legislation which governs us truly reflects this new aspect of the problem or whether the laws were mainly drawn up on the basis of economic

imperatives.

The first two fundamental rights listed above are of a rather legal nature and their underlying principles must be sanctioned by legislative or regulatory texts.

The last two, on the other hand, lead to the establishment of structures or frameworks, although the purely legal aspect may not be dissociated from them.

We trust that the recommendations of this report will be taken into consideration in the course of the long-awaited redrafting of the Consumer Protection Act now taking place.

We also hope that our opinions will be instrumental in inciting the proper authorities to vigourous action in order to initiate a general and co-ordinated consumer protection policy in Québec.

CONSUMER PROTECTION

CONSUMER PROTECTION

We believe that the average consumer is an every-day citizen, a free person capable of choosing in a rational manner, according to his needs and means, provided he is given objective information.

The word "protection" coupled with "average consumer" led us to the following concepts:

> Consumers as individuals are isolated from other consumers and are not sufficiently informed about laws and regulations designed to give them protection of a general nature.
>
> A consumer, by himself, cannot bring about change. He must join with other individuals who share the same interests and needs. He can but profit from listening and speaking out within well-organized and structured associations, so that Government may hear his grievances. It is thus essential that consumers unite within well-structured representative associations susceptible of becoming valid mouthpieces vis-à-vis the Government.
>
> The business world also has social obligations toward its customers, i.e. consumers. This responsibility must be assumed mainly in the area of the quality of the products sold as well as the information made available to customers by means of labelling or advertising of products.
>
> The Government, for its part, must assist consumers by passing laws and regulations aimed at consumer protection as well as by setting up structures to ensure good consumer education and provide assistance in case of need.

A. Consumer self-protection

a) criteria of association representativeness

We have attempted to establish a set of criteria which should make it possible to determine which consumer protection associations are truly

representative of the groups they are designed to protect.

In our opinion, an effective consumers' association should:

1- have legal status;

2- have a secretariat or an office in a well-known location;

3- be registered with the Central File of the Ministère des Consommateurs, Coopératives et Institutions financières;

4- have a budget made up of contributions from its membership;

5- exercise verifiable representation of its members (electoral system, delegation of authority, regular and statutory meetings, etc.);

6- by virtue of its constitutive documents and by-laws, aim at consumer education and information;

7- have a program which is fully understood and supported by its members and leads to positive action in the area of consumer protection.

b) <u>characteristics of organizations identified with consumer protection</u>

We have made a list of some fifteen associations or organizations dedicated to consumer protection in Québec.

A number of the associations we listed no longer exist; a few of them have really nothing to do with consumer protection; ten associations were examined by the Council with respect to their status, operations and financing.

Thanks to the inventory we drew up as regards the nature, structure and conduct of the various associations existing in this province and in the light of information we were able to obtain from these groups, we found that there are two types of consumer protection organizations in Québec:

1- consumers' association strictly speaking, which fill the criteria of representativeness listed above;

2- specialized service organizations which draw their credibility and usefulness for consumers from their competence and effectiveness in the areas of research, popular information and action in their own particular field.

Both these types of organizations may be identified as pressure groups dedicated to the protection of consumer interests.

Some of these organizations have multi-facet programs which involve a variety of activities ranging from information and education to mass action. They claim to represent a more or less large segment of society and base their action on authority delegated by the rank-and-file.

Other organizations which do not have a structure involving representation and delegation of powers exercise more specific action through specialized scientific and technical services aimed at consumer protection.

We found that there is unfortunately no systematic interrelation between these organizations nor is their action co-ordinated. Each seems to operate with no knowledge of the work of other organizations. This lack of communication does nothing to promote co-operation or team work regarding common or complementary programs.

With but few exceptions, the basic ineffiency of all such organizations stems from their inability to achieve self-financing owing to a lack of motivation among members or to an undersized if not unexisting membership, as is the case with service organizations. This state of affairs more or less compels organizations to build their representativeness on the number of subscribers to a publication or on various other approaches which do not give due credit to the quality and motivation of a substantial part of their membership.

Through their action and chief concerns, strictly so called consumers' associations do not really represent low-income earners and the needy. As surprising as it may seem, specialized service organizations are seemingly closer to the more destitute classes of our society.

Because of their recruiting procedures, the training and information of their members, their very weak representation of the people most in need of protection, consumers' associations do not yet constitute valuable groups of experts and qualified representatives which are capable of meeting the requirements of professional associations, advisory Government bodies and companies wishing to include consumers in their decision-making processes.

c) the foundation of their credibility and authority

1- consumer protection associations:

In the case of associations whose authority, according to their own statements, appears to rest mainly upon the number of members they represent or upon the more or less large segments of society for which they are official mouthpieces, it is essential that their legal structure make it possible to determine the number, quality and representativeness of their membership. This information must be verified by public authorities and made available to all concerned. Although the number of registered members within an association cannot be the only criterion to determine its usefulness, it is none the less true that this criterion is essential if a pressure group claims to draw all its strength from the size of its membership.

In view of the present social context, it has become of utmost importance, for these same associations, acting as pressure groups, to operate through corporative structures guaranteeing democratic delegation of power stemming from the rank-and-file. As is the case with trade unions, professional and business associations, these groups must be in a position to prove that their interventions proceed from a mandate given by those whom they represent. This means holding meetings at the local, regional and provincial levels, formal

election of officers and preparation of work programs.

In view of the opportunity of resorting to collective action or other such means of intervention which most likely lie ahead of them, consumer protection associations should, in order to exercise this right, be in a position to establish their solvency. It is thus very important for the associations to find means of becoming financially responsible.

The fact remains that the work programs and the quality of the interventions of associations as well as their representativeness will determine their credibility and authority in the eyes of the public.

2- specialized service organizations

We have no reluctance in stating that specialized service organizations, which have little or no members and thus no real electoral process, can be just as useful for consumers as mass meetings through their activities in the scientific and technical fields. We believe, however, that their identification in this respect should be plain and complete so that the public may be fully aware of the people and the activities involved and may assess an organization's competence as well as the goals it has set for itself.

Undeniably, a study carried out by a relatively small group of researchers is likely to exhibit greater scientific exactness and have as strong if not stronger an impact in the field of consumer protection than the compiled results of a wide-scale public survey carried out among thousands of individuals, without careful supervision, by mass associations. Nevertheless the credibility and authority of these organizations are dependent upon the scientific rigour with which their research is carried out, the objectivity of their criticism and the practical and constructive nature of their recommendations or suggestions.

As is the case with consumers' associations, service organizations must take on full responsibility of their statements and suggestions. The public must know that these organizations are on equal footing with any individual or legal entity with respect to responsibility and solvency.

d) the financing of associations

With but very few exceptions, consumer protection associations call for a yearly contribution of $5.00 at best from each member. While realizing the marginal character of such contributions, the associations' directors claim that they cannot ask for more.

In view of the responsibilities and services which should hopefully be taken on by such associations and in consideration of the present state of consumer motivation, it is impossible for consumer protection associations to achieve self-financing.

The Government must of necessity play a compensative part and take steps to allow the better-structured, most representative and dynamic organizations to act as valid spokesmen in relations with other sectors of society and Government.

The resolutions adopted on the occasion of the symposium on consumer protection in the month of June 1974 contain many practical suggestions on means of helping associations and agencies to play a more useful part in our society. There are also lessons to be learned from experiences carried out in this field by certain European countries.

A Government grant system would entail the obligation, on the part of associations, of accounting for the utilisation of funds and answering for the effectiveness of their action. All concerned should be well-aware of this. In addition, such a system would compel the said associations to find specific centres of interest, to specialize their action in order to avoid program duplication and overlapping of initiatives and to strive for complementarity through better co-ordination of their action.

B. The role of the business world in consumer protection

From the standpoint of the business world, consumer demands are generally in no way excessive. Their demands concern:

- the quality of consumer goods;
- explicit, straightforward and fully-honoured guarantees;
- straightforward and complete label indications;
- supervision of the quality, purity and nutritional value of food products;
- honest and informative advertising so that the public may choose more freely.

In short, their demands include nothing more than what a serious minimaly responsible company is easily capable of giving to its customers.

The common interests which, after all, bind the producer, the distributor and the consumer should give the first two the incentive to provide consumers with instructive information allowing them to choose more judiciously.

Associations of merchants should draw up a code of ethics for their members.

The enforcement of such a measure would also serve as an educational tool for the membership of these associations.

The Council is convinced that participation of all concerned and frank discussion of the problems are the only means of achieving better protection for consumers.

With a view to promoting dialogue, the business world could also co-operate, hand-in-hand with consumer representatives, in setting standards with respect to advertising, labelling, directions for use of products, the proper form for guarantees etc. In connection with this, merchants should be willing to participate in drawing up regulations pertaining to consumer protection.

The principles which are stated in this chapter are in no way unreasonable: the Québec Management Council itself

endorsed them in a statement of principle intended for its members in January 1975.

C. The role of Government in consumer protection

One of the fundamental roles of Government is to apply distributive justice for all citizens. Its action must therefore be directed toward a balance between the forces at hand.

The main purpose of consumer protection legislation or regulations is precisely to re-establish this balance between consumers and merchants with which they do business.

These measures adequately protect consumers on an individual basis. However, the role of Government should not be limited to legislative action.

As mentioned above, we believe that the Government should take steps to allow the better-structured and most representative organizations to continue to work in the best interests of consumers.

In addition, it seems that each organization or association carries out work in its own sphere of action, without establishing communication with other organizations working toward the same ends; and worse, this lack of co-ordination is at times found within a single association.

There is consequently a pressing need for a truly representative organization for Québec consumers as a whole, capable of becoming their official mouthpiece in relations with the appropriate authorities.

The Government must provide consumers as a group with means of representation, not only through grants for various organizations but by setting up structures to co-ordinate their action.

If consumers are to be encouraged to participate in their own protection, they need appropriate and adequately equipped channels through which to voice their views as strongly as can merchants through their own associations.

In other words, it is the Government's duty to maintain a balance, with respect to means of representation and consultation between merchants and consumers, who, until now, were very seldom present in such debates because of insufficient means.

Besides, Government consumer services are scattered among several departments.

This situation often confuses consumers who are looking for information or assistance.

These services are available, of course, but a consumer must first be shrewd enough to find out which department is responsible for the sector he is concerned with and must then be persistent enough to stand being sent from one place to another until he obtains what he wants.

For instance, as concerns housing, one must know that the Québec Housing Corporation is answerable to the Department of Municipal Affairs, that the Rental Board is answerable to the Department of Justice and that real estate brokerage falls within the jurisdiction of the Minister of Consumer Affairs, Cooperatives and Financial Institutions. On top of it all, one must know which of these organizations is in charge of dealing with a particular problem.

How can we ask the average consumer to be aware of the fact that the Department of Agriculture is responsible for enforcing regulations with respect to the identification and labelling of food products? Can we blame him for not knowing that he should communicate with the Public Protector, who reports to the National Assembly, if he thinks his rights were encroached upon by a Government service and that he should bring his case before l'Office des Professions if he believes he was swindled by a professional?

If a person is not familiar with the Private Education Service within the Department of Education, which has jurisdiction over the sale of so-called " self-improvement" courses, can we hold it against him?

Who can condemn anyone for not knowing that public information with regard to highway safety is within the jurisdiction of the Department of Transport and that the problems he encounters with his insurance company are not considered, on the Government administration level, within the field of consumer protection?

What is more, the total lack of co-ordination between the activities of these different Government services amounts, all too often, to leaving the consumer deal with his problem alone.

D. Recommendations

It has become quite clear to us that strong action is needed to achieve real consumer protection in Québec.

Such action should be taken on three levels:

1- co-ordination of the activity of existing consumers' organizations and associations.

2- co-ordination of various Government services and enhancement of their accessibility to consumers.

3- unification of consumer, merchant and Government action.

We readily recognize that this is a sizeable program, involving several new approaches.

It would be advisable at this point to disregard the current meaning of certain words used in the field of consumer protection, such as "Bureau" and "Council", so as not to confuse the existing structures they designate with those we are proposing.

a) co-ordination of consumer action

We would first like to point out how deplorably few organizations dedicated to consumer protection exist.

On the other hand, we are perplexed as to member-recruiting methods in relation to the real representativeness of certain associations without, for all that, minimizing the effectiveness of their action. No one association or organization has the means to take on alone the responsibility of promoting consumer protection and defending consumer rights in Québec.

The lack of machinery to co-ordinate the action of these various organizations does nothing to improve the situation.

The Committee therefore recommends that the Government set up a CONSUMER COUNCIL. This central body would be made up of representatives from associations and organizations working in the field of consumer protection. Each of these organizations and associations should,

if it so wishes, have a representative in the Council.

Consumers could also be members of the Council, on an individual basis.

They would however have to be in a minority in relation to the representatives from associations and organizations.

This body would automatically be appointed official mouthpiece in relations with the authorities in the field of consumer protection, without nevertheless preventing any other association or organization dedicated to consumer protection from being consulted or heard on any particular subject.

The Council would thereby be authorized to speak for Québec consumers and make representations in their behalf on all governmental and commercial levels.

In addition, the Council could play an advisory role vis-à-vis the authorities, the Government in particular, should they want to know consumers' views on a particular topic.

To fulfil this purpose, the Consumer Council would have to enjoy sufficient autonomy so as to be totally free to make criticisms, even with regard to Government action, in the field of consumer protection.

It should be given sufficient financial resources to hire the personnel and acquire the technical means required to carry out its work.

In other words, this central body could provide the necessary technical support for consumers' associations, the action of which is chiefly based on members' voluntary work.

Professional corporations now have consumer representatives within their management bureaux. Certain commercial enterprises apparently intend to follow suit.

If these consumer representatives are to fulfil their purpose efficiently, they must be selected judiciously and those chosen must be given the means through which to perform their duties adequately.

The central body which we would like to see created could be empowered to propose candidates and also to provide consumer representatives, in these various capacities, with any assistance they might reasonably require.

b) co-ordination of the action of Government services

The average consumer's idea of consumer protection involves far more than the limited number of sectors governed by the Consumer Protection Act.

We believe it the duty of Government to group, within a single entity, all information and assistance services for consumers who are confronted with problems for which Québec laws can provide a solution.

Such a merger would make the assistance provided by Québec legislation and regulations more readily available to consumers in addition to preventing the establishment of parallel networks in various Government departments.

Accessibility to this assistance should be also increased by the opening of an even greater number of offices in remote areas, where consumers are often more likely to be swindled.

Since its preoccupations are to reach far beyond the sectors covered by the Consumer Protection Act, this network of information and assistance offices should be dissociated from the Consumer Protection Act. It should nevertheless co-operate closely with the administrative services responsible for the application of this law as well as other laws and regulations involving consumer protection, in such a way as to inform these services of the feedback from the application of laws and regulations and to point out new consumer needs.

This network of information and assistance offices would be referred to as the CONSUMER BUREAU.

c) unification of consumer, merchant and Government action

We believe that dialogue between the three groups involved in consumer protection could be established by means of an ADVISORY COMMITTEE ON CONSUMER AFFAIRS made up of consumers, merchants, as well as civil servants whose

work is directly related to the field of consumer protection, in the widest sense of the word.

While a certain balance should be maintained between consumer and merchant representation, the first group should be in a majority.

The civil servants on the Committee would not have the right to vote.

This three-party Advisory Committee would voice its opinion on new regulatory or legislative proposals made by or to the minister responsible for the sector.

In short, we propose a modification of the structure and role of the present Conseil de la protection du consommateur.

NEW STRUCTURES IN CONSUMER PROTECTION

In this new perspective, the concept of consumer protection reaches far beyond the scope of the Consumer Protection Act.

The application of the Act should be entrusted to a Government service which would be in charge of issuing required permits and handling the files pertaining to legal proceedings under the Act.

As the three other bodies we propose will of necessity be concerned with consumer problems as a whole and since these difficult questions fall within the jurisdiction of a great number of departments, we do not see how they could be incorporated into one or another department.

We therefore recommend that they be placed under the authority of either the National Assembly, the Executive Council, or another autonomous and independent body.

CONSUMER EDUCATION

CONSUMER EDUCATION

A. The concept of consumer education

a) the consumer society

We are faced with the constant arrival of new goods and services on the market. These arrivals in themselves constitute a strong appeal to the individual. This appeal is reinforced by advertising, merchandizing and the increasingly widespread use of large shopping areas.

These new phenomena, among many others, are characteristic of what is generally termed the consumer society.

There is no need to dwell on the benefits with which the consumer society has provided us. Generally speaking, it has tended to free man from burdensome work and allows him, if he so wishes, to devote himself to more meaningful activities, such as the acquisition of knowledge, creative and humanitarian activities. In other words, the consumer society tends, ideally, to raise the standard of living and to improve the quality of life.

But in practice, does the consumer society only provide us with benefits?

The constant appeals which characterize the consumer society give rise to desires which may largely exceed the consumer's means. This hunger for goods is one of the main causes of excessive indebtedness, a phenomenom which is becoming widespread in our society and, in many cases, is the source of numerous economic difficulties.

b) legislation and consumer protection

The purpose of laws and regulations dealing with consumer protection is usually to regulate the activities of the salestrade and to ensure that seller-buyer relations take place in optimal conditions of serenity and objectivity.

Unfortunately, all the laws and bureaucracy in the world are powerless to protect consumers if they do not make

an effort to acquaint themselves with the information made available to them. We have found that consumers sometimes do not trouble themselves to find out about their rights and even ignore the warnings communicated to them by various private or public organizations.

These facts bring out the necessity of CONSUMER EDUCATION as a basic instrument rightfully due to consumers in order to guarantee their protection.

c) consumer education and information

In itself, information is a one-way street: individuals for which it is intended are free to accept or reject it, to abide by it in their behaviour or to ignore it completely. Education, on the other hand, is meant to give consumers motivation to take on a responsible attitude toward the multifarious appeals of the consumer society.

In this perspective, the long-term purpose of education is to improve the quality of the lives of individuals, without trying, however, to force specific choices upon consumers nor to instill a particular philosophy of life or society into them.

The short-term objectives of education should be to teach consumers:

1o to choose more rationally in order to better fulfil their needs;

2o to acquire better purchasing habits;

3o to find out about their rights;

4o to call upon the assistance made available to them.

d) education and paternalism

This conception of consumer education precludes any preconceived idea of what goals should be sought by such and such an individual or such and such a community. All too often, otherwise well-meaning individuals or organizations have felt it their duty to provide "misinformed", "exploited" or "underprivileged" consumers with education based on gloomy utilitarian principles not

very likely to motivate present-day consumers.

Moreover, there has perhaps too often been a willingness to organize the lives of consumers without considering their background, needs, aspirations and individual or community resources.

e) the educational needs of consumers

Experience has shown that educational needs vary from person to person and from area to area. But to promote full understanding of the consumer society and the place of the individual consumer within this society, we believe that any educational effort should deal primarily with the following matters:

1° the nature and causes of the changes with which we are constantly confronted and how to cope with such changes;

2° basic economic processes and their effect upon individuals;

3° how to react in the face of the multiplicity of choices offered by the consumer society;

4° the nature and purposes of credit and savings and how to use them profitably;

5° short and long-term as well as day-to-day practical management of personal affairs.

B. The present situation

On the information level, it is easy to see that consumers are bombarded, by both public and private organizations, with all kinds of pamphlets, folders, television and radio messages, designed to inform consumers about almost every problem they are likely to face.

This abundance is real to the extent that we can safely say that the field is supersaturated. We must however point out a deplorable lack of co-ordination between these efforts. A typical example of this superabundance and total lack of co-ordination is found within various Government departments. Even a summary list of assistance and information services made available to the public is astonishingly long and dis-

concertingly inaccessible. It is in fact impossible for the population to take advantage of all these services if real efforts are not made to centralize and co-ordinate them.

In the area of education as such, we can only report serious deficiencies.

Within school programs, there are introductory economics courses which touch upon consumer protection but apparently very few students take them. One can rightly wonder whether the teachers are sufficiently trained and whether they have adequate pedagogical means at their disposal.

Certain private organizations, namely consumers' associations, have also made numerous attempts to promote consumer awareness. We have found, unfortunately, that very often only a very restricted number of people are reached by these efforts, and these individuals are usually already aware of their problems.

In conclusion, the lack of co-ordination in information efforts on the one hand, and an inherent weakness in traditional educational techniques on the other hand, have prompted us to look for more appropriate approaches and methods in the field of consumer education.

C. Recommendations

Consumer education has three different aspects, namely:

- instruction
- information
- motivation

a) instruction

It is essential to initiate citizens, as early as adolescence, to major consumer problems, such as the right attitude toward advertising and the use of credit.

In this field, a compulsory academic program consisting of a course on economic life centred on the students' immediate needs should be set up from the secondary level.

In elementary school, consumer concepts could be integrated into subject-matters which are already part of the curriculum. This goal could be reached if teachers are made

sensitive to the field of consumer affairs and are given appropriate educational tools.

In addition, the institution of consumer committees and cooperative organizations within schools themselves could be fostered, in such a way as to give students of all levels the opportunity to become acquainted with consumer problems.

b) information

As regards information on an individual basis, we believe that the Government should establish a network of offices where consumers could refer to technical advisors who could point out governmental solutions to their problems or advise them before they assume contractual obligations. The Consumer Bureau offices previously mentioned in this report would be most suitable to carry out such work.

As regards information on a collective basis, consumers could no doubt profit from wide-scale diffusion of pamphlets designed to make them aware of major problems. Certain radio and television programs as well as certain newspaper columns have received a favourable welcome.

Information distribution effected by various consumers' associations and organizations has had excellent results.

It would however be unrealistic to believe that these groups, which are very few, can by themselves provide consumers with adequate information.

This kind of action calls for organization of courses, conferences, seminars on the different aspects of consumer protection, preparation of literature for such meetings, distribution of information material such as folders, pamphlets etc., recording of educational television and radio serials, and publication of informative and educational articles by means of the press.

The success of such a program depends on the existence of a stable governmental body to co-ordinate the action of the various existing consumer groups, to promote the creation of such groups in areas where none presently exist, and even, if need be, to substitute for them. This role would naturally devolve upon the Consumer Bureau mentioned above in this report.

c) motivation

From the standpoint of the possibility for individuals to take their own economic interests in hand, there are three types of consumers:

- people who have the required financial and moral resources to "paddle their own canoe". Regardless of their income bracket, they are usually in a position to take advantage of all available information and services.

- people who have the necessary financial means, but who are unable to use them judiciously, owing either to a deep-seated lack of maturity or to unfavorable personal or familial conditions (psychological or social problems). First and foremost, these people need specialized help to solve their psychological and social problems. As a second step, consumer education can be profitable.

- People who are without essential financial resources. These individuals very often need far more than economic help. The manner in which they spend the little money they have is dictated by their economic situation. But if we look upon consumer education from a broader point of view, if we consider it as a process of integration into the consumer society whereby people can believe that "they will pull through", education must obviously not be neglected in this underprivileged sector of society.

1- motivation through individual action

By "individual action" we mean any educational effort designed to help individuals to solve their consumer problems on a purely personal basis. It can be achieved privately or publicly, by means of small-scale diffusion or through the mass media.

The first category of consumers we described can usually solve their every day consumer problems without any special assistance, provided they are supplied with well-co-ordinated and objective information. At this point, allow us to reiterate that a central body must be set up to co-ordinate all consumer information activities and

to see to it that each individual is provided with suitable services and information according to his economic and social situation. Problems may also vary considerably from region to region. As a matter of fact, very few problems are common to all Québec regions. Information and education must be adapted to the particular circumstances affecting the people for which they are intended.

In the event that consumers in "difficult situation" are given the assistance they need, we believe that the personnel assigned to the different types of assistance have a marked tendency, and regrettably so, to keep exclusively to their specialty. This tendency is no doubt largely due to the fact that their training had very little to do with solving consumer problems.

We deem that anyone who is likely to deal with money-related problems should have a sound knowledge of consumer protection and education, from both the economic and legal standpoints. Thus, such a person will be able to provide "emergency help" and then refer people to the appropriate organizations, while taking all their problems into account.

Individual action is useful and necessary. However, it has inherent weaknesses.

1o the information given very often deals with problems which do not exist at that point in time;

2o if the information is received at the right time, it is used to solve a particular problem and does not really prompt individuals took take their own interests entirely in hand.

2- motivation through collective action

By "collective action" we mean any educational effort designed to solve consumer problems at the community level. Individuals from the same community meet to analyse common problems, assess their resources and find global solutions.

Collective action has long been a tradition in Québec. The cooperative movement is its most widespread

achievement. In recent years, efforts have been made almost everywhere to promote community-mindedness. The time has come to evaluate and draw guidelines from all these experiences so that future undertakings may profit from them.

Meanwhile, we suggest certain guiding principles which could be useful as working hypotheses.

1° collective action should originate within the community

Government bodies and others can and should encourage local initiatives and provide means and organizers, if necessary. It seems however that the chances of success of a collective action project is directly proportional to the intensity with which the community feels a need for such action. In order to make a community aware of its needs, it is at times very effective to inform people of activities taking place in other communities which have to cope with similar situations.

2° collective action should, as much as possible, be carried out by existing local associations and groups. It must contribute to a co-ordination of their efforts.

3° collective action should be adapted to each cultural and socio-economic environment.

As previously mentioned, needs vary considerably from community to community; it is therefore futile to think that one system could be suitable for the territory as a whole.

4° in order to maintain its dynamism, collective action should strive for short-term results.

It is of course necessary to assess its long-term effects, but experience seems to have shown that a group's interest cannot be maintained witnout concrete results.

3- collective action and organizers

Some communities already have well-structured organizations, propelled by people with a talent for organization

and great influence upon their fellow citizens. Co-ordinated action of these associations, assisted by a regional office of the Consumer Bureau, would prove to be a very efficient means of educating consumers.

Other communities, particularly the less wealthy ones, lack organizations and organizers. In such cases, the Government should, through local community centres or otherwise, make well-trained organizers available to the communities.

A good organizer must be well-acquainted with the community, be part of the community if possible. He must also be equipped with essential material resources: funds, suitable premises, material.

Above all, he must have sound knowledge of the economic system, the consumer society and consumer protection and education.

In this respect, we would like to call attention to a pilot project designed to train specialized organizers in the field of consumer affairs.

The program, known as "T'AGIS" (Techniques d'action et de gestion individuelle, communautaire et collective), was developed by le CEGEP Bois de Boulogne in cooperation with la Fédération des Caisses Populaires Desjardins. It is intended exclusively for adults involved in community work and consists in four weeks of theoretical courses per year over five years, followed by supervised training periods in the organizer's working environment;this training leads to a Diplôme d'Etudes Collégiales.

We recommend that this experience be evaluated and, if it proves successful, that it be extended to other regions in Québec.

In closing we wish to reaffirm our conviction that consumer education must lead to a new awareness, on the part of consumers, of their role and rights in the consumer society, of their economic destiny within a free and prosperous community.

While our recommendations entail, on the part of the authorities, a change of attitude toward consumer education as well as the institution of large structures to take both preventive and curative action, it is only through these measures that we can hope to do useful work in the area of consumer education.

AMENDMENTS TO THE ACT

AMENDMENTS TO THE ACT

From the very beginning of our mandate, the Minister informed us of his intention to modify the present Act in depth and to extend legislative protection to certain new sectors.

Because of the primary role entrusted to us, namely that of council in the field of consumer protection, this forecast of a thorough revision prompted us to direct our legislative studies towards seeking solutions in sectors where consumers face considerable difficulties and which are not as yet governed by the Act.

We deemed equally important to survey the recommendations made in previous annual reports so that this year's recommendations fit into a coherent group of concepts and ideas which we hope will appear in the new Act. It is with this purpose in mind that we reiterate those recommendations, made by the Council since its creation, which propose changes in the Act.

General observation

We believe that the Consumer Protection Act must retain its primary purpose, that of protecting consumers when they engage in contracts involving credit or not. It must also give similar protection, beyond these contracts, by prohibiting certain practices whereby consumers are exposed to exploitation and fraud and by subjecting certain businesses which, owing to the nature of their activities, can create problems for consumers and even inflict losses upon them. Finally, the Act must ensure its efficiency by maintaining and improving administrative and judicial measures which are indispensable to the application of the Act.

A. Protection with respect to contracts

a) cash transactions

The Consumer Protection Act has made good progress by imposing strict formalism in contracts involving credit. We acknowledge that this first step is significant as regards the protection of Québec consumers, but we believe that the new Act should contain provisions to afford greater protection to consumers who engage in cash transactions.

The Act should, as often as possible, provide the same protection for cash sales as for sales involving credit, especially in relation to safety standards, warranties, quality and taking advantage of consumers because of their inexperience.

We recommend that, in the case of cash transactions involving moveable property worth over $300., the following particulars be required:

- the name and address of the merchant;
- the description of the object of the contract;
- the sales price;
- all costs incidental to the sale;
- the date of performance of the contract;
- the penalty clauses, if any.

b) variable credit

The provisions of the Act regarding variable credit make this type of credit readily accessible to consumers. We are of the opinion that new measures should be included in the Act, not to make it in any way more difficult for consumers to be extended variable credit, but so that the modes of application of this type of contract be stated more precisely, thus ensuring that consumers are well-aware of the obligations they assume.

We wish to add the following to recommendations 30 to 32 of the 1972-73 annual report:

- if a credit card is lost or stolen, the consumer should be in no way responsible for debts resulting from the use of the card by a third party, once the merchant has been notified of the loss or theft.

- even when such notification is not given, the liability of the consumer whose credit card was lost or stolen, should be limited to $50.00.

- the merchant should send a statement to consumers to whom credit advances were extended over a period, at least two weeks before such advances bear interest.

All statements should compulsorily mention, in bold print, the total balance to be debited to the consumer as well as the interest rate to be applied. This com-

pulsory particular could read as follows: "xx% INTEREST ON THE TOTAL BALANCE $XXX.XX".

A system should be set up to prevent a consumer from being penalized for delays in the receipt of account payments when he fulfilled his obligation within the period during which there are no credit charges. Payments could be considered made as from the moment they are mailed.

If a merchant intends to modify the terms and conditions of a contract involving variable credit in order to make it more costly, he should have to notify the consumer at least sixty (60) days before the enforcement of the modifications set out in the notification.

c) warranties

The Council formulated the following statement in recommendation 40 of its 1972-73 annual report:

"40. Warranties should specifically indicate in unequivocal terms the duration of the protection provided, the names of the parts covered, the obligations which the consumer must meet in order to benefit from the advantages offered by the warranties, the names of the persons or companies to be consulted to ensure the respect of the warranties, the names of the manufacturers, their addresses and also their phone numbers."

In view of the impressive number of complaints regarding warranties received by the Consumer Protection Bureau, we attach great importance to this recommendation. We examined the sectors which give rise to the largest percentage of complaints as regards warranties. We found that durable goods as well as related repair services should, owing to their nature and price, carry a compulsory basic warranty formulated more explicitely than the legal warranties set out in the Consumer Protection Act and the Civil Code.

In most cases, the beneficiary of a warranty does not have prior knowledge of all the implications of the warranty on a product: this is the source of most conflicts in this sector.

Our study established the following two facts:

- it would be advisable to enforce a compulsory basic warranty on durable goods and related repair services.

- consumers should be in a position to have prior knowledge of all the elements and implications of warranties, whether legal on contractual.

1) warranties on durable goods

A- definitions

For the purposes of the recommendations herein, the following expressions mean:

a) durable consumer goods:

Any non-used mechanical, electric or electronic goods which are the object of a contract between a dealer and a consumer.

b) basic warranty:

A basic warranty guarantees goods or services against defects and poor operation over a reasonable period of time. This reasonable period of time is determined according to the nature and price of the goods or services as well as the manner in which they are used.

c) additional warranty:

Any warranty given in addition to the compulsory basic warranty or a legal warranty, which is granted voluntarily by a manufacturer or a dealer.

d) beneficiary of the warranty:

Means a consumer as defined in the Consumer Protection Act and any person to whom a product was entrusted or transferred for his personal use, or that of his family.

B- durable consumer goods

a) compulsory basic warranty:

The Consumer Protection Act should require that a compulsory basic warranty, as defined above, be given on all durable consumer goods.

liability for the compulsory basic warranty

The manufacturer and the dealer are liable for the basic warranty and may be sued individually or jointly by virtue of the compulsory basic warranty.

Notwithstanding the possible recourse against the seller, the latter is entitled to recover from the manufacturer any losses or expenses incured as a result of the beneficiary of the warranty exercising his rights under the compulsory basic warranty.

b) rules applicable to the compulsory basic warranty and the additional warranty

All durable consumer goods which carry a basic warranty or in relation to which an additional warranty is given, should come with a certificate of warranty.

This certificate of warranty should appear in the contract or in a separate document.

This separate certificate of warranty should be an integral part of the contract and should be given to the consumer with the durable consumer goods at the time of delivery.

The substance of the certificate of warranty should be expressed in plain terms and should:

1° identify the product as explicitly as possible;
2° identify the manufacturer or the warrantor of the product;
3° include the name and address of the place

to which the said product must be taken for repairs or the name and address to which a request must be sent when repairs must be carried out at the consumer's home.

It should also be prohibited to stipulate in the certificate of warranty that the consumer is required to pay transportation costs for defective durable consumer goods when, owing to the nature, size, weight or attachment of the said goods, this requirement is excessive and unreasonable.

c) rules applicable only to the additional warranty

In addition to the above-mentioned provisions, the certificate attached to durable consumer goods for which an additional warranty is given should indicate, in plain terms:

1° the duration of the warranty;
2° the extent and the items not included in the warranty; the latter should be listed on the front side of the certificate;
3° whether the parts and labour or only one or the other of these items are covered;
4° which parts are covered by the warranty;
5° the conditions to be met by the consumer before he can have recourse to the warranty;
6° the correct procedure for filing a claim under the warranty;
7° the costs to be borne by the beneficiary in the case of action taken under the warranty;
8° that the additional warranty is a supplement to any legal warranties and may not modify them nor annihilate their effect;

d) means of complying with the compulsory basic warranty and the additional warranty

The warrantor must comply with any warranty by:

1° repairing the product adequately;
2° replacing the product or refunding its

price when it has proved impossible, after a reasonable number of attempts, to repair the product adequately, according to the standards to be met by such a product and in consideration of the purpose for which it is normally intended.

In the event that it is agreed that the beneficiary of the warranty is entitled to have goods replaced or refunded, the warrantor would have the right to deduct an amount of money equal to the depreciation of the durable consumer goods, assessed according to the period of time during which the beneficiary had use of the goods.

3° for repair purposes:

a) it would be advisable to require that manufacturers or dealers operate one or several service centres, supplied with all the parts needed to repair durable consumer goods in the province of Québec.

b) defective durable consumer goods could be returned to the dealer if the latter's premises are more easily accessible to the consumer than the repair service centre.

2) the repair warranty on durable goods

Good working order, over a reasonable period of time, should be compulsorily guaranteed in service contracts pertaining to durable goods and such a warranty should include parts to be replaced or added as well as labour.

A contract which does not include service could be exempted from this compulsory warranty provided it contains an exemption clause expressly signed by the consumer.

d) itinerant vendors

We acknowledge the effectiveness of the provisions in the present Act as regards sales

effected between itinerant vendors and consumers. However, we have found that some of these salesmen, while complying with the requirements of the present Act, avail themselves of methods and practices the sole purpose of which is to distort the spirit of consumer protection.

We would like to reiterate recommendation 64 of the 1973-74 annual report, which reads as follows:

"64. The Act should be amended in order to enable consumers to dissolve contracts made with itinerant vendors within seven days of the date the contract has become executory, or within two days following receipt of the goods under contract, the later of the two being the valid date".

However, only computation of the respite as from the date the contract becomes executory should be allowed in cases where the object of the contract is a product which must be carved, cut or built to the consumer's own specifications, or which, owing to its nature or to the fact that it is attached to another of the consumer's possessions, could not be returned to the seller without the latter suffering considerable loss. Such contracts involve, among others:

- re-upholstering of furniture;
- renovation and paving;
- doors, windows, roofing, exterior facing for buildings;
- floor coverings;
- water-softeners;
- tombstones;
- cimetary lots;
- smoke or heat detectors;

We believe however that a consumer should not be entitled to dissolve a contract made with an itinerant vendor if the goods he received from the vendor cannot be returned in the same state as they were at the time of delivery.

e) health studios

In our opinion, it would be advisable to exercise some control over businesses commonly known as "health studios" by requiring that owners of such establishments hold a permit for this purpose.

We recommend that studies be carried out without delay with the purpose of drawing up regulations on the following points:

1° the abusive use of the word "health" in this sector;
2° the qualities required of such permit-holders as well as their employees.
3° the extent and the terms and conditions of contracts which these businessmen offer to consumers;
4° the possibility of giving consumers who have made such contracts the right to cancel them.

B. Protection beyond contracts

a) questionable practices

Certain businessmen indulge regularly in commercial practices which, without being illegal, nevertheless induce consumers to engaging in contracts for the wrong reasons.

We believe that such practices should be expressly prohibited.

Free gifts give rise to serious problems. In our opinion, this question should be thoroughly examined in order to determine whether consumers profit in any way from such deals or whether they are really a take-in.

If the latter is the case, appropriate regulations should be adopted.

b) information agents

The present provisions of the Act regarding credit

records do not appear to give consumers all the protection they have a right to expect.

Because of the special nature of their activities and the responsibility which devolves upon them, credit information agents should be in a position to keep records on individuals in the most honest and accurate fashion possible.

As regards information agents, we recommend the following:

a) information agents should be required to hold permits;
b) nobody should be allowed to investigate about an individual without having advised the latter beforehand;
c) the contents of reports should be regulated;
d) information detrimental to an individual and dating back more than a certain period of time should not be disclosed;
e) a consumer should be allowed, free of charge, to examine his record, have it decoded, if need be, and be accompanied by a third party on this occasion;
f) a consumer should be able to obtain, for the prescribed charge, a copy of his record either in French or in English;
g) credit records should not include, without express consent from the consumer, information from people who are subjected to professional secrecy;
h) a person who has obtained such confidential information, with the consumer's permission, should also be subjected to secrecy;
i) consumers should be entitled to correct their records and to write down their own comments;
j) when a consumer has added a comment to his credit record, the information agent should:

    1- verify the information he has;
    2- correct the record, if necessary and
    3- notify any person to which incorrect or incomplete information was given

k) the identity of any person to which a report was made should appear in the record;

l) no report drawn up by a credit information agency should mention the race, religion, ethnical origin or political affiliation of the subject of the investigation;
m) credit information agencies should only be allowed to disclose information to those who have a justifiable interest in it;
n) any information pertaining to character should be corroborated before it is entered into a credit record.

So that consumers are made aware of the existence of credit records concerning them in the files of an information agent, we recommend the following measures:

As regards records which are already in existence when the Act is passed, information agents should notify any person which they have investigated during the previous three years, of the existence of a credit record concerning him and of the rights and recourses with which the Act provides him.

As from the time the Act comes into force, an information agent who inquires about a person should notify the latter by means of a standard form which should include the name and address of the information agent in charge of the investigation as well as the provisions of the Act pertaining to information agents.

c) <u>automobile repairs</u>

With a view to thwarting certain dishonnest practices, contracts dealing with motor-vehicle repairs as well as estimates given before such repairs are carried out should be regulated in the following manner:

a) a detailed estimate of the repairs and their cost should be required, except in the case of minor repairs;
b) any repairs which do not appear in the estimate should not be carried out, unless they are the subject of an additional estimate;
c) the estimate should indicate whether the repairs must be effected with new or used replacement parts;

d) the repair costs should not exceed the estimated costs by more than a certain percentage;
e) the parts replaced should be offered to the customer;
f) provision should be made for appropriate penal and civil sanctions.

d) automobile rentals

Car rental contracts have given rise to certain problems. We therefore recommend that the possibility of regulating the terms and conditions of these contracts be considered, so that consumers may be more fully aware of their obligations.

e) contracts between consumers

The Council previously recommended that the Consumer Protection Act be made applicable to contracts between consumers, and more specifically to such contracts dealing with the sale of used automobiles, mobile homes, pleasure boats, trailers and electric appliances.

We are aware of the fact that more and more consumers sell their cars directly to other consumers. We cannot ignore the great number of problems which arise in this sector of activities. As an emergency regulation and an immediate solution, we propose that all used vehicles be submitted to a compulsory inspection before they can be sold by a consumer or a dealer; the purpose of this inspection would be to inform potential buyers, by means of an official document attached to the sales contract, of the over-all state of the motor-vehicle.

In addition, we wish to reiterate recommendations 6 to 15 of the Council's 1973-74 annual report, which deal with compulsory inspection of used motor-vehicles in Québec.

Furthermore, we believe that all used vehicles should meet the requirements of an attestation of mechanical conformity, before they can be registered in Québec.

f) trust accounts

In addition to the provisions already included in the Act, we recommend the following:

Any sum of money which a merchant receives from a consumer by virtue of a contract stipulating that the merchant's principal obligation must be performed more than two months after the signing of the contract, should compulsorily be deposited in a trust account until the merchant has performed his principal obligation.

C. Protection of an administrative nature

a) regulatory powers

In addition to the regulatory powers already provided for in the present Act, it would be advisable to bestow upon the Lieutenant-Governor in Council the authority to prohibit certain misleading and dishonest practices by drawing up a list of these practices.

Before any such regulations are put into effect, they should be submitted to the Conseil de la protection du consommateur for approval.

b) L'Office de la protection du consommateur

When an order is issued by the Director of l'Office de la protection du consommateur by virtue of the powers conferred upon him by the Act, "the information or complaint file" from which this order resulted should be stripped of its confidential character.

Furthermore, the Director should be required to publish a digest of the orders thus issued.

Without limiting the recourses already provided by the Act, but rather with a view to minimizing costs incurred by parties involved in problems with respect to the honouring of warranties and avoiding a multiplicity of petitions before the

courts, we recommend that l'Office de la protection du consommateur be empowered to intervene as an arbitrator, upon request from a consumer, in order to solve conflicts arising from a compulsory basic warranty or an additional warranty.

The Consumer Protection Act should be amended so as to enable the Bureau, upon a consumer's request, when there is disagreement concerning a warranty:

1- to telephone or write to the parties in order to find common ground;
2- if this first intervention fails, to summon the parties so that they may explain their differences;
3- to propose solutions to the dispute.

Decisions made by the Bureau, in its capacity as arbitrator with respect to warranties, could in no time be interpreted as judicial decisions and if no agreement is reached, the parties could go before the courts.

c) permits

We acknowledge that certain acts committed by merchants should necessarily prevent them from being issued permits. We believe, however, that the Director should be given some discretionary power as regards the issuance of a permit in the case of an applicant who did not comply with an order from the Minister or the Director or was found guilty of an infraction under the present Act or regulations.

Such infractions could in fact be of a technical nature and not justify as severe a penalty as the refusal to renew or issue a permit.

We therefore recommend that the whole question of issuance and non-issuance of permits be left, to some extent, to the Director's discretion, who would thus be in a position to subject certain permits to conditions or restrictions.

M I S C E L L A N E O U S R E M A R K S

During the year, the Council was consulted with respect to certain matters for which it expressed but summary opinions either because of the urgency of the situation, the obviousness of the solution or upon the Minister's request.

Legislation and regulation

Thus the Council requested insistently that the Minister responsible for consumer protection, as well as other authorities in the field, speed up the Consumer Protection Act revision process, hasten the passage of the Act respecting the protection of buyers of new houses and land and enforce effective and strict regulations with respect to meat inspection.

The use of credit cards

Again this year, the Council studied the question of the ever-increasing use of credit cards, as a commercial instrument.

The Conseil de la protection du consommateur deems that credit cards are not harmful in themselves and that they can even be advantageous in some cases.

Prohibiting credit cards would therefore not be an answer to the problem: the solution lies rather in teaching consumers how to use them wisely.

Consequently, the Council sees no reason to change last year's recommendation and does not believe that the purchase of certain goods by means of a credit card should be prohibited.

As for the value of regulations designed to require that merchants give a discount or a rebate to consumers who pay cash instead of buying on credit, the Council is of the following opinion:

Within the present system, the overhead resulting from credit extended by a merchant is absorbed equally by all his sales, regardless of whether they are cash

or credit transactions. The members of the Council recognize that this practice is not fundamentally equitable.

It seems that sales paid with a cheque also result in additional management costs and that these costs are also borne by all customers.

Various types of regulations, such as discounts for cash payments or immediate and direct surcharges on contracts involving credit, were examined. However, the members of the Council have found that any one of these means would, in the end, only add to the costs borne by all consumers, even those who pay cash.

Moreover, the Council believes that the real problem lies not so much in the fact that credit is extended to consumers but in the excessive use that is often made of it.

It seems clear enough that the purpose sought by incentive or obligatory measures designed to give a rebate to consumers who pay cash or, as a counterpart, to apply a surcharge to contracts involving credit, would not be so much the sum of money saved by consumers who pay cash, but the fact that consumers would be made aware of the dangers and the costs involved in using credit recklessly.

With respect to regulations, the Council wishes to reiterate the recommendations dealing with advertising of credit which were expressed in its third annual report.

Enforcement of regulations derived from these recommendations, as well as consumer education through means of communication which reach the public effectively, are, in the opinion of the Council, the only realistic courses which can be followed.

Any agreement between a credit-card company and a merchant designed to prevent consumers who pay cash from benefiting from a discount or some other advantage should be prohibited.

Amendments to the regulations

On January 8, 1975 pursuant to Order in Council 39-75, the Lieutenant-Governor in Council amended the General Regulation in the following terms:

"2.14 A A contract involving accessory credit, a sale on a deferred payment basis whose object is the sale of a mobile home as well as a contract for a loan of money extended at the time of such contract or sale shall be exempt from the application of section 13 of the Act, where such contract stipulates that if a sum exceeding the amount of a periodic payment is outstanding at the expiry of the contract, the merchant may only require payment thereof 90 days after forwarding a written notice of his intention to the consumer."

The following definition is also given:

"9 a. "mobile home": a structure without an engine and manufactured to be used as a dwelling and to be transported".

This amendment had been previously submitted, in draft form, to the members of the Council. They deemed that the purchase of a mobile home is more closely related to the purchase of immoveable property than to that of moveable property, and that the proposed exemption merely restores parity of treatment in this regard between real estate contracts and contracts involving mobile homes.

The Council consequently approved the proposed amendments to the regulations.

Regulation of the practice of pharmacy and the sale of pharmaceutical products

Last fall, various regulations proposed by the Quebec Order of Pharmacists were discussed in the course of the public sessions held by l'Office des professions du Québec.

Proposed regulations in the field of consumer protection

Proposed regulations have been the subject of wide-scale and often bitter public discussion. Not wanting to enter into all the details of these projects, we centred our attention around two major themes, namely:

1° the protection of consumer health
2° the quality-price relationship

1° the protection of consumer health

a) the atmosphere in pharmacies

The atmosphere in pharmacies should make professional contact between the pharmacist and the patient easier.

Without trying to determine if it would be advisable to isolate the prescription counter completely, we believe that it should be sufficiently removed and conspicuous so as to emphasize the serious character of the use of medication of any kind.

b) advertising of medication

Advertising of retail drugs is principally designed to encourage wide-scale purchase and over-consumption of commonly used medication. This is why such advertisements should be totally banned.

Advertising distributed by manufacturers, on the other hand, should be subjected to the rules proposed by the Council in its third annual report (recommendations 51 to 56)..

c) advertising of services

Pharmacists should be permitted to make use of objective publicity for the services offered by his business which do not have to do with the scale of medication per se.

for instance: business hours, home delivery, laboratory analyses, etc.

He should also be entitled to disclose to the public how he sets the prices of prescription drugs.

d) The Pharmacy Act

Section 27 states: "... only a pharmacist or partnership of pharmacists may be owner of a pharmacy". It seems that some companies take advantage of the franchise system to evade this provision. We believe that this situation should be corrected without delay.

2° the quality-price relationship

Both as regards prescription and non-prescription drugs, there are considerable and inexplicable price differences from one pharmacy to another and even between different brands of the same generic drug.

We strongly recommend that this deplorable situation be examined so that it can be corrected in the consumers' best interests.

XXXXXX

We must however point out that even if these regulations are enacted and the above principles recognized, several other sectors of the drug trade particularly in the area of proprietary medicine, the sale of which is not exclusively restricted to the Order of Pharmacists, will in no way be affected by the new regulations.

To this effect, we wish to call to mind recommendations 51 to 56 of the Council's 1973-74 annual report.

L'ÉDITEUR OFFICIEL DU QUÉBEC
SERVICE DE LA REPROGRAPHIE
Novembre 1975